

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Thomas E. Perez, Secretary of Labor, United
States Department of Labor,

Plaintiff,

v.

Staples Contract and Commercial, Inc. and
Staples, Inc.

Defendants.

C/A No. 3:13-cv-1775-JFA

ORDER

Thomas E. Perez, Secretary of Labor, United States Department of Labor (“Plaintiff”), has filed a lawsuit on behalf of Jeffery Angstadt (“Angstadt”) asserting that Staples Contract and Commercial, Inc. and Staples, Inc. (“Defendants”) violated the Family Medical Leave Act (“FMLA”) of 1993, 29 U.S.C. §§ 2601-2654, by failing to notify Angstadt of his eligibility status and rights and responsibilities under the FMLA in response to his request for leave to care for his wife. Defendants’ filed a Motion to Dismiss for failure to state a claim. ECF No. 29. Plaintiff filed a response in opposition to the motion, ECF No. 30, and Defendants replied. ECF 34.

The Magistrate Judge assigned to this action¹ prepared a thorough Report and Recommendation (“Report”) and opines that this court should deny Defendants’ Motion to Dismiss. The Report sets forth in detail the relevant facts and standards of law on this matter, and this court incorporates those facts and standards without a recitation.

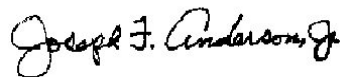
¹ The Magistrate Judge’s review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(g) (D.S.C.). The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).

Defendants were advised of their right to object to the Report, which was entered on the docket on August 7, 2014. However, Defendants did not file objections. In the absence of specific objections to the Report of the Magistrate Judge, this court is not required to give an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

After carefully reviewing the applicable laws, the record in this case, as well as the Report, this court finds the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law. Accordingly, the court adopts the Report and denies the motion to dismiss. The court further adopts the Report's recommendation that the parties be permitted to conduct limited discovery on the issue of whether Defendants are an integrated and/or joint employer under the FMLA and whether Defendants employed more than 50 employees within a 75-mile radius of Angstadt's worksite. Defendants are granted leave to refile their motion for summary judgment on this issue at the conclusion of the limited discovery period.

IT IS SO ORDERED.

August 27, 2014
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge